

AGRICULTURAL AFFAIRS COMMITTEE
ADMINISTRATIVE RULES REVIEW

Table of Contents

2008 Legislative Session

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - Rules for Weights and Measures

Docket No. ***02-0214-0702***2

02.04.21 - Rules Governing The Importation Of Animals

Docket No. ***02-0421-0801***6

***02.06.06 - Rules Governing the Planting of Beans,
(Phaseolus Ssp.), in Idaho***

Docket No. ***02-0606-0501***8

***02.06.10 - Rules Governing the Potato Cyst Nematode
(Globodera Pallida)***

Docket No. ***02-0610-0701*** (New Chapter)12

AGRICULTURAL AFFAIRS COMMITTEE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0702

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 71-111, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Adopt by reference of the date specific standard ASTM D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel". To state in rule that the specifications for gasoline blended with ethanol be no more restrictive than those adopted under the rules, regulations, and the Clean Air Act waivers of the U.S. Environmental Protection Agency. The temporary rule will facilitate ethanol use in the state.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To confer a benefit to have gasoline and gasoline-oxygenate blend specifications and exceptions to those specifications as adopted under the rules, regulations and Clean Air Act waivers of the EPA in rule to facilitate refiners, distributors and retailers in the use of ethanol in the state of Idaho. Some refiners are reluctant to provide gasoline-oxygenate blends without the waivers and exceptions cited in IDAPA rules.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Tom Schafer at 332-8690.

DATED this 31st day of October, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701-0790
Phone 332-8500, Fax 334-4062

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE
Rules Governing Animal Industry

Docket No. 02-0403-0601
TEMPORARY RULE

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2006 edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (3-30-07)

02. Required Reference Materials for Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

03. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D 4814-07 a, "Standard Specification for Automotive Spark-Ignition Engine Fuel," dated October 17, 2007, is hereby incorporated by reference and is the specification for gasoline. (11-1-07)T

034. Local Availability. Copies of ~~Handbook No. 44 and Handbook No. 133~~ the incorporated documents are on file with the ~~State Law Library and the~~ Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading on the internet by going to <http://nist.gov>. ~~(2-13-04)~~(11-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

350. SALE AND LABELING OF GASOLINE WHICH CONTAINS OXYGENATES.

01. Definitions. For purposes of this rule, the following definitions shall apply: (7-1-93)

a. Spark-Ignition Motor Fuel. The terms "spark-ignition motor fuel" or "spark-ignition engine fuel" mean gasoline and its blends with oxygenates such as co-solvent and ethers. (10-26-94)

b. Gasoline-Oxygenate Blend. For labeling purposes, the term "gasoline-oxygenate blend" means any spark-ignition motor fuel containing one percent (1%) or more by volume of oxygenates or combination of oxygenates, such as but not restricted to ethanol, methanol, or methyl-tertiary-butyl ether. (10-26-94)

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE Rules Governing Animal Industry

**Docket No. 02-0403-0601
TEMPORARY RULE**

c. Alcohol. A volatile flammable liquid having the general formula $C_nH_{(2n+1)}OH$ used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as an alcohol, including ethanol and methanol.

(7-1-93)

d. Co-solvent. An alcohol or any other chemical with higher molecular weight than methanol or ethanol which is blended with either or both to prevent phase separation in gasoline.

(7-1-93)

e. Ethanol. Ethyl alcohol, a flammable liquid having the formula C_2H_5OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as ethanol or ethyl alcohol.

(7-1-93)

f. Gasoline. Any fuel sold for use in motor vehicles and commonly or commercially known or sold as gasoline whether leaded or unleaded.

(7-1-93)

g. Methanol. Methyl alcohol, a flammable liquid having the formula CH_3OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as methanol or methyl alcohol.

(7-1-93)

h. Motor vehicles. Include all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors.

(7-1-93)

i. Person. The word "person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person.

(7-1-93)

j. Retail dealer. Any person who owns, operates, controls, or supervises an establishment at which gasoline is sold or offered for sale to the public.

(7-1-93)

k. Wholesale dealer. Any person engaged in the sale of gasoline to others who the seller knows or has reasonable cause to believe intends to resell the gasoline in the same or an altered form to another.

(7-1-93)

02. Pump Labeling Requirements.

(7-1-93)

a. All spark ignition engine fuel kept, offered, or exposed for sale, or sold, at retail containing at least one percent (1%) by volume of any oxygenate or combination of oxygenates shall be identified as "with" or "containing" (or similar wording) the specific type of oxygenate(s) in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE/ETBE." This information shall be posted on the upper fifty percent (50%) of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least one half (1/2) inch in height, one-sixteenth (1/16) inch stroke (width of type).

(10-26-94)

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE Rules Governing Animal Industry

Docket No. 02-0403-0601
TEMPORARY RULE

b. The labels shall be furnished by the retail owner or operator. (7-1-93)

03. Oxygenates Content Labels. (10-26-94)

a. The label shall have letters in bold face, block not less than one-half (1/2) inch high. The lettering shall be in black on a contrasting background. Both colors shall be non-fade. (10-26-94)

b. The label shall be displayed on both faces of the dispenser on the upper one-half (1/2) of the dispenser as near the unit price display as practical. (10-26-94)

04. Documentation for Dispenser Labeling Purposes. The retailer must be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of any oxygenate or combination of oxygenates present in concentrations of at least one percent (1%) by volume of the fuel. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending. (10-26-94)

05. Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends. (11-1-07)T

a. The version of ASTM D 4814 "Standard Specification for Automotive Spark-Ignition Engine Fuel" incorporated by reference in this rule is the standard for gasoline and gasoline oxygenate blends, except the volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency. Gasoline blended with ethanol shall be blended under any of the following three options. (11-1-07)T

i. The base gasoline used in such blends shall meet the requirements of ASTM D 4814, or (11-1-07)T

ii. The blend shall meet the requirements of ASTM D 4814, or (11-1-07)T

iii. The base gasoline used in such blends shall meet all the requirements for gasoline of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification. (11-1-07)T

b. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than one point zero (1.0) psi. (11-1-07)T

056. Penalties. Any person who shall violate any provisions of these rules shall be punished as provided for in Section 37-2501 and Section 37-2520, Idaho Code. (7-1-93)

AGRICULTURAL AFFAIRS COMMITTEE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-0801

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 19, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 25-207, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This rule updates and clarifies the import requirements for Canadian cattle and bison imported into Idaho including individual animal identification, CAN branding and import permit requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

It is necessary to protect the public health, safety and welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact John Chatburn, Deputy Administrator at (208) 332-8540.

DATED this 21st day of November, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

201. CATTLE AND BISON IMPORTED FROM CANADA.

All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must: (11-19-07)T

01. CAN Brand. Be permanently hot-iron branded with the letters CAN, not less than

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE Rules Governing the Importation of Animals

Docket No. 02-0421-0801
TEMPORARY RULE

two (2) inches high nor more than three (3) inches high, placed high on the right hip. (11-19-07)T

- 02. Idaho Requirements.** Meet all Idaho import requirements. (11-19-07)T
- 03. USDA Requirements.** Meet all USDA import requirements. (11-19-07)T
- 04. Individually Identified.** Be individually identified on a certificate of veterinary inspection. (11-19-07)T
- 05. Import Permit.** Be accompanied by an import permit issued by the Division. (11-19-07)T

2042. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. Dairy cattle three hundred sixty-five (365) days of age or older shall be officially identified as provided in IDAPA 02.04.20. The Administrator may require the identification of dairy cattle less than three hundred sixty-five (365) days of age. (5-3-03)

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

- a.** From states or areas that are not Brucellosis Class Free; or (5-3-03)
- b.** Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)
- c.** Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Canadian Cattle and Bison. All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to importation. (11-19-07)T

056. Other. Cattle of any classification that do not meet other entry requirements. (5-3-03)

2023. -- 209. (RESERVED).

AGRICULTURAL AFFAIRS COMMITTEE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.06 - RULES GOVERNING THE PLANTING OF BEANS, (*PHASEOLUS SSP.*), IN IDAHO

DOCKET NO. 02-0606-0501

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 1, 2005.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

There is less farm ground in Idaho being irrigated under rill irrigation as more is being converted to sprinkler irrigation. The current rules for the planting of kidney and garden beans require a two year history of rill irrigation planting in Idaho prior to a planting under sprinkler irrigation. The proposed changes are to amend IDAPA 02.06.06 Section 200.09.b. to read "All other beans" and eliminate Section 200.09.c. due to the constraints of the planting irrigation history requirement of two years under rill irrigation prior to a planting of one year under sprinkler irrigation. Also, a requirement for serology testing after the planting under sprinkler irrigation will be added.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary change confers a benefit to the Idaho Bean Seed Industry. Unless the rule is amended, Idaho could lose much of its bean seed business.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee or charge being imposed or increased through this temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620 or Garry West, Program Manager at (208) 736-2195.

DATED this 19th day of April, 2005.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road

P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE
The Planting of Beans, (*Phaseolus SSP.*)

Docket No. 02-0606-0501
TEMPORARY RULE

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

200. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO.

In order to be eligible for planting bean seed in Idaho: (4-2-03)

01. Idaho Grown Seed. Seeds planted must be from a lot that has an in-state planting tag number (state number) assigned by the Department based on growing season and windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag) or be tagged by the ICIA in accordance with these rules. (4-2-03)

02. Malheur County, Oregon Grown Seed. Bean seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and in the windrow for the regulated pests as defined in Section 012 of these rules and tagged by the Oregon Department of Agriculture. (4-2-03)

03. Imported Seed Grown West of the Continental Divide in the Contiguous United States. Imported bean seed grown west of the Continental Divide in the contiguous United States must: (4-2-03)

a. Be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests as defined in Section 012 of these rules, and stating that the crop was field and windrow inspected; (4-2-03)

b. Seed lot shall successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department; (4-2-03)

c. Must bear a Department approved tag (yellow); (4-2-03)

d. Shall not be planted under sprinkler irrigation; and (4-2-03)

e. Each field planted in Idaho must be submitted for field and windrow inspections. (4-2-03)

04. Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin. Imported bean seed grown east of the Continental Divide in the Contiguous United States or of foreign origin to be planted in Idaho shall be planted only on an approved trial ground as outlined in Section 250. (4-2-03)

05. Idaho Grown Seeds Shipped East of the Continental Divide in the Contiguous United States or to a foreign Country and Returned. Bean seeds shipped east of the Continental Divide in the contiguous United States or to a foreign country may be returned to Idaho but upon return shall be planted on an approved trial ground as outlined in Section 250. (4-2-03)

06. Contaminated Seeds. The seeds from any bean field found or known to be

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE The Planting of Beans, (*Phaseolus SSP.*)

Docket No. 02-0606-0501
TEMPORARY RULE

contaminated with a regulated pest, as defined in Section 012 of these rules, shall not be planted in Idaho. (4-2-03)

07. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (4-2-03)

08. Tags. Bean seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (4-2-03)

- a. Department in-state planting tag (green tag); (4-2-03)
- b. Department approved tag (yellow tag); (4-2-03)
- c. ICIA tag, provided the lot was field and windrow inspected by ICIA in accordance to these rules; or (4-2-03)
- d. Oregon Department of Agriculture inspection tag. (4-2-03)

09. Irrigation. (4-2-03)

a. Pintos, Red Mexicans, Pinks, Great Northerns, Small Whites, Navy Beans, Black Turtles, and Lima beans: (4-2-03)

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for two (2) consecutive generations in Idaho under sprinkler irrigation. (4-2-03)

iii. Seed grown under sprinkler irrigation for two (2) consecutive generations shall then be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

b. ~~Cranberry types, Taylor Horticultural types, and Borlotto types~~ All other beans: (4-2-03)(4-1-05)T

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation. (4-2-03)

iii. ~~To be eligible for a second consecutive planting of seed under sprinkler~~ Any time seed has been grown and inspected for one (1) generation in Idaho under sprinkler irrigation and prior to planting the seed under sprinkler irrigation or rill irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (4-2-03)(4-1-05)T

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE
The Planting of Beans, (*Phaseolus SSP.*)

Docket No. 02-0606-0501
TEMPORARY RULE

iv. Following ~~the~~ a second consecutive planting of ~~the~~ seed under sprinkler irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. ~~(4-2-03)(4-1-05)T~~

v. After meeting the requirements of Subsections 200.09.b.i. through 200.09.b.iv., the seed must be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

~~e. All other beans:~~ ~~(4-2-03)~~

~~i. First two (2) generations of seed grown in Idaho must be grown and inspected under rill irrigation.~~ ~~(4-2-03)~~

~~ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation.~~ ~~(4-2-03)~~

~~iii. Following any generation of seed grown under sprinkler irrigation in Idaho, the seed must be grown and inspected for two (2) consecutive generations in Idaho under rill irrigation.~~ ~~(4-2-03)~~

AGRICULTURAL AFFAIRS COMMITTEE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.10 - RULES GOVERNING THE POTATO CYST NEMATODE (GLOBODERA PALLIDA)

DOCKET NO. 02-0610-0701 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-2013, Idaho Code and 7 CFR Part 301, Subpart – Potato Cyst Nematode Sections 301.86 through 301.86-9, as published in the Federal Register Vol. 72, No. 176, Wednesday, September 12, 2007.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

A new chapter, IDAPA 02.06.10 - Rules Governing the Potato Cyst Nematode (*Globodera pallida*) will be promulgated. The rule will incorporate by reference the U.S. Department of Agriculture Animal and Plant Health Inspection Service, interim rules and regulations for the potato cyst nematode as published in the Federal Register on September 12, 2007. The rule will specify its purpose, the regulated articles and quarantined areas, the restrictions governing the regulated articles and conditions governing the movement of the regulated articles, inspection and disposition of the regulated articles, and the penalties for violation of quarantine rules. These rules must be promulgated to prevent the further introduction and dissemination of potato cyst nematode into other states and areas of Idaho not included in the quarantined area, as outlined in the rule, through the movement of infested plant material, plant products and soil.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), (b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety or welfare, to confer a benefit, and to comply with a deadline of November 1, 2007 whereupon the federal government will adopt interim potato cyst nematode rules and regulations.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Michael E. Cooper or Thomas Dayley at (208) 332-8620.

DATED this 18th day of October, 2007.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road

P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode

Docket No. 02-0610-0701
TEMPORARY RULE

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

IDAPA 02 TITLE 06 CHAPTER 10

02.06.10 - RULES GOVERNING THE POTATO CYST NEMATODE (GLOBODERA PALLIDA)

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2013, Idaho Code. (11-1-07)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.10, "Rules Governing the Potato Cyst Nematode (*Globodera pallida*)."

(11-1-07)T

02. Scope. The purpose and goal of this rule is to prevent the spread of Potato Cyst Nematode (*Globodera pallida*) throughout Idaho and the United States.

(11-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules.

(11-1-07)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code.

(11-1-07)T

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.10 incorporates by reference:

(11-1-07)T

01. 7 CFR Part 301 SubPart - Potato Cyst Nematode Sections 301.86 through 301.86-9 as published in the Federal Register Volume 72, No. 176, Wednesday, September 12, 2007, except as amended below in this rule.

(11-1-07)T

02. USDA APHIS PPQ Treatment Manual Schedule T406-d, Revision 10, September 2006.

(11-1-07)T

03. 7 CFR Part 305 – Phytosanitary Treatments, as revised September 12, 2007.

(11-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE Rules Governing the Potato Cyst Nematode

**Docket No. 02-0610-0701
TEMPORARY RULE**

01. Street Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (11-1-07)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (11-1-07)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701-0790. (11-1-07)T

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (11-1-07)T

05. Fax Number. The fax number of the central office is (208) 334-2283. (11-1-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (11-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND TERMS.

The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. In addition as used in this chapter: (11-1-07)T

01. Inspector. Any employee of ISDA, APHIS, the U.S. Department of Agriculture, or other person authorized by the USDA APHIS Administrator or ISDA Director to perform the duties required under this rule. (11-1-07)T

02. Interstate. From any state into or through any other state. (11-1-07)T

03. Intrastate. Movement within the boundaries of the state of Idaho. (11-1-07)T

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (11-1-07)T

02. ISDA. Idaho State Department of Agriculture. (11-1-07)T

03. PCN. Potato Cyst Nematode. (11-1-07)T

04. PPQ. Plant Protection and Quarantine. (11-1-07)T

05. USDA. United States Department of Agriculture. (11-1-07)T

012. INTRASTATE MOVEMENT.

No regulated articles may move within the State of Idaho without complying with the federal regulations, as incorporated by reference in Section 004.01 in this rule. (11-1-07)T

AGRICULTURAL AFFAIRS COMMITTEE

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode

Docket No. 02-0610-0701
TEMPORARY RULE

013. (RESERVED).

014. RESTRICTIONS.

01. Movement From a Non-Quarantined Area. Movement of regulated articles from a non-quarantined area is subject to inspection by an inspector. Permits and certifications are not required. (11-1-07)T

02. Movement From a Quarantined Area. Movement of regulated articles from a quarantined area is subject to the provision of Section 02.06.10.015 of this rule. (11-1-07)T

03. Other Restrictions. No potatoes, tomatoes, eggplants or any other known host crops may be planted in the infested fields. Soil must not be moved from the infested fields. Any equipment leaving the infested fields must be sanitized and certified using USDA APHIS approved protocols. (11-1-07)T

04. Seed Potatoes. Seed potatoes may not be grown in a quarantined area. (11-1-07)T

015. CONDITIONS FOR INTRASTATE OR INTERSTATE MOVEMENT OF REGULATED ARTICLES.

Regulated articles may only be moved intrastate or interstate from a quarantined area by a person under a compliance agreement if accompanied by a certificate or limited permit issued by an inspector in accordance with 7 CFR Part 301 Sections 301.86-4 and 5. (11-1-07)T

016. -- 019. (RESERVED).

020. INSPECTION, SAMPLING AND TESTING.

In order to accomplish the purposes of this rule, an inspector may enter upon and inspect any public or private premises, lands, means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, sampling, testing, treating, controlling or destroying any soil, plant or plant material thought to or found to contain or be infested with Potato Cyst Nematode. (11-1-07)T

021. -- 024. (RESERVED).

025. PENALTIES.

Any person violating any of the provisions of these rules will be subject to the penalty provisions of Title 22, Chapter 20, Idaho Code. (11-1-07)T

026. -- 999. (RESERVED).